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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/798,633

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Timothy D. Killinger

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08/29/2006

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EXAMINER

MOHANDESI, JILA M

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/798,633

Applicant(s)

KILLINGER ET AL.

Examiner

Jila M. Mohandesi

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 05-18-04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species I in the reply filed on June 12, 2006 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Cyr (6,206,567). Cyr discloses a portable container for holding office products and documents, the portable container comprising: a rigid structural portion (Container 10) capable of holding hanging folders in cascading configuration; and a cover portion (closure flap 26) attached to the rigid structural portion; a shoulder strap (12) that is secured to the rigid structural portion; and the cover portion including an upper panel (top 34) that may be opened to provide access to file folders disposed within the container. See Figures 1-4 embodiments.
4. Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Strong (5,873,730) Strong discloses a portable container for holding office products and documents, the portable container comprising: a rigid structural portion (bag body 12) capable of holding hanging folders in cascading configuration; and a cover portion (closure flap 32) attached to the rigid structural portion; a shoulder strap (44) that is

secured to the cover portion which passes through at least one aperture in the cover portion. See Figures 1-4 embodiments.

5. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Everts (4,717,215). Everts discloses a portable container for holding office products and documents, the portable container comprising: a rigid structural portion (box 10) capable of holding hanging folders in cascading configuration; and a cover portion (cover 70) attached to the rigid structural portion by at least one rod member (64). See Figures 7 and 8 embodiments.

Claim Rejections - 35 USC § 103

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Everts (4,717,215). With respect to claim 3 whether the attachment means is flexible straps or any other art recognized equivalent is an obvious matter of choice, such as to require less manual dexterity to operate.

8. Claims 3, 7-8 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Everts (4,717,215) in view of Fox et al. (5,779,331). Everts discloses a portable container for holding office products and documents, the portable container

Art Unit: 3728

comprising: a rigid structural portion capable of holding hanging folders; and a cover portion attached to the rigid structural portion by at least one rod member. See Figures 7 and 8 embodiments. Everts does not appear to disclose the rigid structural portion including file folder hanging surfaces having variable heights so that file folders hanging from the rigid structural portion are arranged in a cascading manner. Fox discloses a portable container where a rigid structural portion includes file folder hanging surfaces having variable heights so that file folders hanging from the rigid structural portion are arranged in a cascading manner for better visibility and accessibility of files. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the rigid structural portion of Everts with file folder hanging surfaces having variable heights as taught by Fox so that file folders hanging from the rigid structural portion are arranged in a cascading manner for better visibility and accessibility of files.

With respect to claims 15-17 and 20, Official Notice is taken that it is old and conventional to provide a removable insert for providing hanging surfaces for hanging file folders of more than one size. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made in view of the Official Notice to provide removable insert to the hanging surfaces of Everts for hanging file folders of more than one size.

9. Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references as applied to claim 1 above, and further in view of Lodge et al. (5,687,819). Everts as described above discloses all the limitations of the claims except

for the portable container including a storage caddy having pockets for holding items such as pens. Lodge discloses a portable container with a storage caddy having pockets for holding items such as pens so that articles can be organized and easily accessible. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a storage caddy to the portable container of Everts as taught by Lodge for holding items such as pens in an organized fashion. For easier accessibility.

With respect to claims 10 and 11, note the web portions (panels 2 and 4) for supporting the storage caddy.

With respect to claims 12-13, Official Notice is taken that it is old and conventional to provide cardboard stiffeners in storage caddies for better retaining it's shape. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made in view of the Official Notice to provide cardboard stiffener to the storage caddy of Everts for better maintaining its shape.

With respect to claim 14, Official Notice is taken that it is old and conventional to provide cushioning to storage caddies for better protecting the items held therein. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made in view of the Official Notice to provide cushioning to the storage caddy of Everts for better protecting the items held therein.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are portable containers analogous to applicant's instant invention.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jila M Mohandesi
Primary Examiner
Art Unit 3728

JMM
August 08, 2006